

**JANUARY 31, 2008**MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**ABDIWALI AWALE )  
A077-602-498 )

Plaintiff, )

v. )

Ruth A. Dorochoff, District )

Director of the USCIS, )

Department of Homeland )

Security; Michael Chertoff, )

Secretary, Department of )

Homeland Security; )

Michael B. Mukasey, )

Attorney General, )

U.S. Department of Justice )

)

&amp; )

)

Robert S. Mueller, )

Director, Federal Bureau of )

Investigation )

)

Defendants )

No.

**08 C 693****JUDGE ZAGEL  
MAGISTRATE JUDGE VALDEZ****COMPLAINT FOR HEARING ON NATURALIZATION APPLICATION****UNDER 8 USC SEC. 1447(B)**

Plaintiff, by his undersigned attorney, complaining of Defendants, allege as follows:

1. Plaintiff is an individual and permanent resident of the United States who resides within the jurisdiction of this court. Plaintiff's claim to naturalization arises under 8 U.S.C. Sec. 1447(b).
2. Plaintiff is a resident of Chicago, Illinois.

3. Plaintiff was granted his permanent residency on December 14, 1999. *See* Exhibit 1.
4. Any named defendant is sued in his official capacity only.
5. Ruth A. Dorochoff, the Defendant herein, is the District Director of the United States Citizenship and Immigration Services (USCIS) and is sued herein in her official capacity. Defendant is responsible for the grant or denial of naturalization applications filed within the Chicago USCIS District Office. The Federal Bureau of Investigation ("FBI") is named as a party to this action because they conduct a name/security check for the DHS as part of the application process.
6. The Court has jurisdiction in this action pursuant to 8 U.S.C. Sec. 1447(b), 28 U.S. C. Sec. 2201 as well as 28 U.S.C. §1331 & §1361.
7. On September 30, 2004 Plaintiff submitted an application for naturalization to USCIS. *See* Exhibit 2. On March 1, 2005, the Defendant and/or his designated agent interviewed Plaintiff on his application. During the time of the interview the Plaintiff received Form N-652, "Naturalization Interview Results", indicating that he had passed the tests for English and U.S. history and government and that a decision cannot be made on his application due to the pending background check. *See* Exhibit 3.
8. Plaintiff maintains that he meets all statutory requirements for eligibility for naturalization.
9. On November 10, 2005 Plaintiff made an inquiry to the USCIS concerning the status of his application. The response received on January 11, 2006 indicated

that the Plaintiff's case was still being held pending background investigation. *See* Exhibit 4. Another USCIS inquiry made on June 11, 2007 showed the same result. *See* Exhibit 5.

10. On January 31, 2008, Plaintiff made an online inquiry at the USCIS web-site regarding status of his naturalization application and was informed that the case is still pending. *See* Exhibit 6.
11. The application for naturalization has been pending for 35 months since the time of examination. It is imperative that Plaintiff's application be adjudicated as soon as possible, because the delay by the DHS and FBI is unreasonable, and the Plaintiff is precluded from enjoying the rights and responsibilities of being a Citizen of the United States due to agency inaction.
12. Plaintiff has no other adequate remedy for the agency failure to complete and adjudicate the application for citizenship.
13. More than 120 days have passed since the Plaintiff's interview and "examination" in his naturalization application and the Defendant has failed to make a determination under 8 U.S.C. Sec. 1446 of the Plaintiff's naturalization application. The Defendant's failure to make a determination on Plaintiff's application for naturalization within the 120-day statutory period from the date of examination allows Plaintiff to bring the matter to this Court for a hearing pursuant to 8 U.S.C. Sec. 1447(b).
14. Plaintiff desires a judicial determination of his naturalization application and a declaration that he is entitled to be naturalized as a Citizen of the United States.

WHEREFORE, the Plaintiff prays that:

1. The Court will hear Plaintiff's case and render a judgment and determine the matter of naturalization, or in the alternative remand the matter with appropriate instructions to the USCIS to determine the matter.
2. The Court grant such further relief, including attorney fees and costs of this action, as may be just, lawful, and equitable in the premises.

Respectfully submitted,

MARK S. DAVIDSON  
Attorney for Plaintiff

By: s/Mark S. Davidson  
MARK S. DAVIDSON  
Davidson & Schiller, LLC  
One North LaSalle Street, Suite 2400  
Chicago, Illinois 60602  
Telephone: (312) 499-9000

**PERMANENT RESIDENT CARD**

NAME AWALE, ABDIWALI Y

INS A# 077-602-498

Birthdate 12/25/77 Category RES Sex M

Country of Birth Somalia

CARD EXPIRES 05/28/12

Resident Since 12/14/99

C1USA0776024986LIN0113851366<<  
7712256M1205282SOM<<<<<<<<<<<<8  
AWALE<<ABDIWALI<YUSUF<<<<<<<<<<

EXHIBIT 1



Receipt			NOTICE DATE
CASE TYPE			October 07, 2004
N400 Application For Naturalization			INS A#
APPLICATION NUMBER			A 077 602 498
LIN*000707122	RECEIVED DATE	PRIORITY DATE	PAGE
	September 30, 2004	September 30, 2004	1 of 1
APPLICANT NAME AND MAILING ADDRESS		PAYMENT INFORMATION:	
ABDIWALI Y AWALE		Single Application Fee: \$390.00	
# 505		Total Amount Received: \$390.00	
6815 N SHERIDAN RD		Total Balance Due: \$0.00	
CHICAGO IL 60626			
<p>The above application has been received by our office and is in process. Our records indicate your personal information is as follows:</p> <p>Date of Birth: December 25, 1977 Address Where You Live: 6815 N SHERIDAN RD # 505 CHICAGO IL 60626</p> <p>Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.</p> <p>You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 540 days of this notice.</p>			
<p>If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.</p> <p>If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.</p> <p>If you have access to the Internet, you can also visit INS at <a href="http://www.ins.usdoj.gov">www.ins.usdoj.gov</a>. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.</p>			
INS Office Address:		INS Customer Service Number:	
US IMMIGRATION AND NATURALIZATION SERVICE		(800) 375-5283	
PO BOX 87400		APPLICANT COPY	
LINCOLN NE 68501-			
LIN\$000661292			
EXHIBIT 2			

Department of Homeland Security  
U.S. Citizenship and Immigration Services

# **N-652, Naturalization Interview Results**

A#: 77-602-498

On                     , you were interviewed by USCIS officer LITWIN

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the tests of U.S. history and government and the English language requirement was waived.
- ☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to            speak/            read/            write English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on Form N-14.
- ☒ USCIS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your            English ability/            knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.
- A)            **Congratulations! Your application has been recommended for approval.** At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.
- B) ☒ **A decision cannot yet be made about your application.**

It is very important that you:

- ☒ Notify USCIS if you change your address.
- ☒ Come to any scheduled interview.
- ☒ Submit all requested documents.
- ☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.
- ☒ Go to any Oath Ceremony that you are scheduled to attend.
- ☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

**NOTE:** Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS has not made a determination on your application within 120 days of the date of your examination.

**EXHIBIT 3**



U.S. Citizenship  
and Immigration  
Services

#### NOTE TO APPLICANTS REGARDING NATIONAL SECURITY CHECKS

A final decision cannot be made on any application for naturalization or adjustment of status to permanent resident until national security checks are complete and the local USCIS office receives a response.

National security checks are performed by federal agencies other than the United States Citizenship and Immigration Services (USCIS). Your local USCIS office has no control over the pace of completion of these required checks.

At any given time, there are many hundreds of this office's cases pending due to national security checks. A significant portion of these checks takes more than six months to complete. At the USCIS Chicago District Office, cases with pending security checks are queried every week to ensure that those whose checks have cleared are acted on in a timely manner.

The USCIS Chicago District Office requests that you wait at least 120 days from the date of your interview before making an inquiry regarding the status of your case, if you have been advised at your interview that your security check (or name check) is pending. Your cooperation helps us to use office personnel more efficiently to complete your case and others that are pending.

USCIS thanks you for your patience and understanding in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Comfort".

Michael M. Comfort  
District Director



U.S. Department of Homeland Security  
USCIS  
10 West Jackson Boulevard  
Chicago, IL 60604



**U.S. Citizenship  
and Immigration  
Services**

Wednesday, January 11, 2006

ABDIWALI Y AWALE  
PO BOX 268301  
CHICAGO IL 60626

Dear ABDIWALI Y AWALE:

On 11/10/2005 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

<b>Caller indicated they are:</b>	The applicant
<b>Attorney Name:</b>	Information not available
<b>Case type:</b>	N400
<b>Filing date:</b>	09/30/2004
<b>Receipt #:</b>	
<b>Beneficiary (if you filed for someone else):</b>	AWALE, ABDIWALI, Y
<b>Your USCIS Account Number (A-number):</b>	A077602498
<b>Type of service requested:</b>	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

U.S. CIS - 01-11-2006 09:48 AM EST

EXHIBIT 4

U.S. Department of Homeland Security  
Nebraska Service Center  
P.O. Box 82521  
Lincoln, NE 68501-2521



**U.S. Citizenship  
and Immigration  
Services**

Friday, June 22, 2007

ADDIWALI AWALE  
PO BOX 268301  
CHICAGO IL 60626

Dear Addiwali Awale:

On 06/11/2007 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

<b>Caller indicated they are:</b>	Applicant or Petitioner
<b>Attorney Name:</b>	Information not available
<b>Case type:</b>	N400
<b>Filing date:</b>	09/30/2004
<b>Receipt #:</b>	LIN*000707122
<b>Beneficiary (if you filed for someone else):</b>	Information not available
<b>Your USCIS Account Number (A-number):</b>	Information not available
<b>Type of service requested:</b>	Outside Normal Processing Times

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

U.S. CIS - 06-22-2007 11:45 AM EDT - LIN\*000707122

EXHIBIT 5

## Case Status Search

Receipt Number: LIN\*000707122

Application Type: N400, APPLICATION FOR NATURALIZATION

Current Status:

Case received and pending.

On September 30, 2004, we received this N400 APPLICATION FOR NATURALIZATION, and mailed you a notice describing how we will process your case. Please follow any instructions on this notice. We will notify you by mail when we make a decision or if we need something from you. If you move while this case is pending, call customer service. We process cases in the order we receive them. You can use our processing dates to estimate when yours will be done. This case is at our NEBRASKA SERVICE CENTER location. Follow the link below to check processing dates. You can also receive automatic e-mail updates as we process your case. Just follow the link below to register.

---

If you have a question about case status information provided via this site, or if you have not received a decision from USCIS within the current processing time listed, please contact the USCIS Customer Service at (800) 375 5283 or 1-800-767-1833 (TTY).